

Message Text

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C O N F I D E N T I A L STATE 167329

E.O. 11652: GDS

TAGS: PGOV, CPRS, CY

SUBJECT: TURKISH CYPRIOT COMPENSATION DECREE

REF: NICOSIA 1410

1. UNLESS SATISFIED THAT A PARTICULAR SETTLEMENT IS CLEARLY ADEQUATE, DEPARTMENT HAS GENERALLY REFRAINED FROM ISSUING CERTIFICATES OF WAIVER OF THE TYPE CALLED FOR IN SECTION III, PARAGRAPH 10 OF THE TURKISH CYPRIOT COMPENSATION ORDER OF MAY 11, 1978. THE REASON FOR THIS IS THAT INTERNATIONAL LAW RECOGNIZES THAT COMPENSATION FOR LOSSES SUSTAINED SHOULD BE ADEQUATE AND EFFECTIVE, AND THE FACT THAT AN INDIVIDUAL IS PREPARED TO AGREE TO A SETTLEMENT THAT IS BY OBJECTIVE CRITERIA SHORT OF ACCEPTABLE DOES NOT MEAN THAT HE OR SHE CANNOT REQUEST US TO PURSUE THE CLAIM FURTHER WITH THE GOVERNMENT IN QUESTION. OBVIOUSLY OUR
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ABILITY TO DO SO WOULD BE VITIATED HAD WE EARLIER WAIVED THAT RIGHT.

2. IN ORDER TO AVOID SETTING UNDESIRABLE PRECEDENT, WE CANNOT THEREFORE GIVE EMBASSY BLANKET AUTHORIZATION TO PROVIDE A CERTIFICATE OF WAIVER TO ANY U.S. CITIZEN CLAIMANT WHO INDICATES THAT HE OR SHE IS SATISFIED WITH THE COMPEN-

SATION OFFERED BY THE TURKISH CYPRIOTS AND INTENDS TO SUBMIT THE REQUIRED PERSONAL CERTIFICATE OF WAIVER. RATHER,

ANY SUCH CASES THAT ARISE SHOULD BE HANDLED ON AN INDIVIDUAL BASIS. IF, UPON DUE EVALUATION, DEPARTMENT DETERMINES THAT A PARTICULAR SETTLEMENT CAN STAND THE TEST AND IS DEFENSIBLE, THEN WE WILL CONSIDER ISSUANCE OF A CERTIFICATE OF WAIVER SO THAT THE CLAIMANT CAN COLLECT. OTHERWISE, WE WOULD HAVE TO DECLINE TO PROVIDE ANY SUCH CERTIFICATE.

3. ACCORDINGLY, EMBASSY SHOULD NOTIFY DEPARTMENT OF ANY REQUESTS BY U.S. CITIZENS FOR GOVERNMENTAL CERTIFICATES OF WAIVER AS PER TURKISH CYPRIOT ORDER, PROVIDING DETAILS AS TO NATURE OF LOSS AND AMOUNT OF COMPENSATION OFFERED. IF APPROPRIATE, DEPARTMENT WILL THEN AUTHORIZE WAIVER AND SUGGEST SUITABLE LANGUAGE. WE FEEL THAT THIS PROCEDURE SHOULD NOT BE UNDULY CUMBERSOME OR TIME-CONSUMING, SINCE IN OUR ESTIMATE THE NUMBER OF U.S. CITIZENS WHO WOULD BE ELIGIBLE FOR COMPENSATION UNDER THE ORDER IS PROBABLY QUITE SMALL. VANCE

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